

# MAINE STATE LEGISLATURE

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October 2, 1946

To Maine Real Estate Commission

The department acknowledges receipt of your letter of September 30th. You inquire whether the act creating the Commission empowers the Commission by rule and regulation to provide that applicants for either a broker's or a salesman's license shall submit to a written examination which they are required to pass before they become eligible for a license.

Under Section 5 of Chapter 85 which provides for the evidence that the applicant is to submit for the purpose of being licensed, it is provided in the last sentence of the second paragraph: "The commission, with due regard to the paramount interests of the public, may require such other proof as shall be deemed desirable as to the honesty, truthfulness, integrity, reputation and competency of the applicant," and in the last paragraph the Commission is "expressly vested with the power and authority to make and enforce any and all such reasonable rules and regulations connected with the application for any license as shall be deemed necessary to administer and enforce the provisions of this chapter." The Commission under these provisions has promulgated a rule and regulation providing for a written examination of applicants for a broker's or salesman's license.

The legislature, it will be noted, has specifically vested the Commission with the discretion to require such other proof as they may deem fit as to the competency of the applicant. A written examination would come within the provisions of this law, to aid the Commission in determining the competency of the applicant.

Your next question is: "If an applicant refuses to take an examination, can we refuse to issue him a license?"

The answer is: Yes.

Your last question is: "Can we give examinations without a primer?"

Answer: Yes. There is no requirement that the Commission prepare a primer for study by the applicant, and it is purely the voluntary act of the Commission to aid those who apply for a broker's or salesman's license.

Abraham Breitbard  
Deputy Attorney General

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